

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

STATE OF WASHINGTON,

Plaintiff,

and

STATE OF OREGON,

Plaintiff-Intervenor,

v.

ERNEST MONIZ, Secretary of the  
United States Department of Energy,  
and the UNITED STATES  
DEPARTMENT OF ENERGY,

Defendants.

NO: 2:08-CV-5085-RMP

SECOND AMENDED CONSENT  
DECREE BETWEEN DEPARTMENT  
OF ENERGY AND STATE OF  
OREGON

WHEREAS, the Court on March 11, 2016, amended portions of the Consent Decree between the State of Oregon (“Oregon”) and the U.S. Department of Energy (“DOE”), ECF No. 223 (Amended Consent Decree Between Department of Energy and State of Oregon);

1 WHEREAS, the Court ordered that “DOE and Oregon have thirty days in  
2 which to file any joint stipulation to modify the Court’s Amended Consent  
3 Decree,” ECF No. 221 at 102;

4 WHEREAS, the Amended Consent Decree between DOE and the State of  
5 Washington, ECF No. 222, requires that DOE “must purchase and have available  
6 by December 31, 2016, a spare A-E-1 reboiler for the 242-A Evaporator,” *see id.* at  
7 5 (Amended Consent Decree Part IV.B.5);

8 WHEREAS, DOE and the State of Washington have agreed to a stipulated  
9 modification to the Amended Consent Decree, providing that DOE must purchase  
10 the spare reboiler by December 31, 2016, have it available by December 31, 2018,  
11 and provide the State of Washington with monthly and quarterly reports regarding  
12 progress on those activities;

13 WHEREAS, DOE and Oregon agree that the below-specified modification  
14 to Paragraph 3 of the Amended Consent Decree to add a quarterly reporting  
15 requirement regarding activity and progress made toward purchasing and having  
16 available the spare reboiler is appropriate to ensure that Oregon is kept apprised of  
17 DOE’s progress on this issue; and

18 WHEREAS, submission of this Stipulation pursuant to the Court’s March  
19 11, 2016 order is without prejudice to any rights of either Oregon or DOE to  
20 appeal that order or previous orders;

1 THEREFORE, IT IS HEREBY STIPULATED AND ORDERED, that:

2 The Amended Consent Decree between the U.S. Department of Energy and  
3 the State of Oregon, ECF No. 223, be modified as follows:

4 **I. Paragraph 3**

5 Paragraph 3 of the Amended Consent Decree, ECF No. 223 at 2-4, is  
6 hereby **AMENDED** by renumbering Paragraph 3.h as Paragraph 3.i, and by adding  
7 a new Paragraph 3.h, so that it reads as follows:

- 8 3. DOE shall, on a quarterly basis, submit to Oregon, on the same day  
9 that it submits to Ecology,<sup>1</sup> a written report documenting waste  
10 treatment plant (WTP) construction and startup activities and tank  
11 retrieval activities at Hanford that occurred during the period covered  
12 by the report. This written report shall provide the status of progress  
13 made during the reporting period and shall include:

---

17 <sup>1</sup> The State of Washington is also referred to as “Ecology,” shorthand for the  
18 Washington State Department of Ecology, throughout the following Consent  
19 Decree modifications. The Court refers to the State of Washington as “Ecology” in  
20 order for the modifications to remain consistent with the remaining, unmodified  
21 Consent Decree sections. *See* ECF No. 60. This footnote is for explanatory  
purposes only, and does not constitute part of the modified Consent Decree.

- a. A brief description of project accomplishments and project issues encountered during the reporting period and/or expected in the next three (3) months;
- b. A definitive statement describing whether or not DOE has complied with milestones that have already come due as of the date of the report, and how any missed milestones may affect compliance with other milestones;
- c. Where applicable, a description of actions initiated or otherwise taken to address any schedule slippage;
- d. Budget/cost status;
- e. Copies of written directives given by DOE to the contractors for work required by this Decree, if requested by Ecology;
- f. A description of progress made towards resolving the five outstanding WTP technical issues; and
- g. An accounting of total labor hours expended on SST retrieval, specifying the total percentage of hours worked utilizing self-contained breathing apparatus.
- h. A description of activity and progress made toward purchasing and having available a spare A-E-1 reboiler

1 for the 242-A Evaporator, including a description of cost  
2 and schedule performance.

- 3 i. The Consent Decree entered between DOE and Ecology  
4 permits Ecology to request a hearing should Ecology  
5 demonstrate good cause that DOE has not been  
6 forthcoming as pertains to the quarterly reports. Ecology  
7 will serve Oregon with any request for a hearing, and  
8 Oregon representatives may attend and participate in  
9 such a hearing. Such permission to attend shall not vest  
10 Oregon with any rights as a party to those proceedings.  
11 Oregon's unavailability after reasonable notice shall not  
12 require the delay or rescheduling of such hearings.

13 **IT IS SO ORDERED.**

14 The District Court Clerk is directed to enter this Order and provide copies to  
15 counsel.

16 **DATED** this 12th day of April 2016.

17 s/ Rosanna Malouf Peterson  
18 ROSANNA MALOUF PETERSON  
19 United States District Judge  
20  
21